

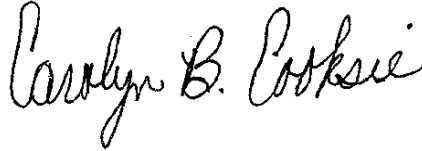
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Making
3-FLP**

Amendment 5

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 163 C has been amended to:

- update the citizenship eligibility requirements
- require that U.S. non-citizen nationals and qualified aliens must provide appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

Subparagraph 163 O has been amended to add certification that the loan applicant is not ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862.

Exhibits 8 and 9 have been added to provide interim guidance as to the acceptable documentation of immigration status as either of the following:

- qualified alien
- U.S. non-citizen national.

Page Control Chart		
TC	Text	Exhibit
1	9-11, 9-12 9-21, 9-22	1, pages 1, 2 2, pages 9, 10 8, pages 1-4 (add) 9, pages 1-4 (add)

Table of Contents

Page No.

Part 1 Introduction and Purpose

1	Purpose and Sources of Authority	1-1
2	Related References	1-2
3-10	(Reserved)	

Part 2-8 (Reserved)

11-160 (Reserved)

Part 9 Emergency Loan Program

161	Program Overview	9-1
162	Loan Purposes	9-1
163	Eligibility Requirements	9-12
164	Limitations	9-24
165	Calculating Losses	9-25
166	Interest Rate	9-31
167	Loan Terms	9-31
168	General Repayment and Security Requirements	9-35
169	Real Estate Security Requirements	9-40
170	Chattel Security Requirements	9-42
171	Appraisal and Valuation Requirements	9-42
172	Insurance for Loan Security	9-44
173	Charges and Fees	9-46
174	Conflict of Interest	9-46
175	Loan Approval	9-47
176	Actions After Loan Approval	9-48
177	Loan Denial	9-50

Exhibits

1	Reports, Forms, Abbreviations, and Redelegations of Authority
2	Definitions of Terms Used in This Handbook
3	(Reserved)
4	State Supplements
5, 6	(Reserved)
7	Rehabilitation or Reestablishment of Fruit, Nut Bearing, and Income Producing Trees and Plants
8	Interim Guidance: Documentary Evidence of Status as a Qualified Alien
9	Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National

162 Loan Purposes (Continued)

C

**Production
Losses
(Continued)**

- Servicing the direct loan according to FmHA Instruction 1951-S or 1951-T will not result in a feasible plan.
- The applicant is the sole obligor on the loan to be refinanced.
- The entire direct or guaranteed FLP loan may not be refinanced if using loan funds to pay only the delinquent and/or current year installment(s) will result in a feasible plan.

--Compliance with these requirements shall be documented in the running record of the loan file.--

(7) Replace lost working capital.

See Exhibit 2 for the definition of working capital.

- (8) Loan funds may also be used to purchase livestock and farm equipment, including quotas, and cooperative stock for credit, production, processing, and marketing purposes.
-

163 Eligibility Requirements

A**General
Eligibility
Requirements**

[7 CFR 764.4(a)] An applicant for an emergency loan must meet the following eligibility requirements:

Eligibility requirements are addressed in subparagraphs B through T.

B**Legal Capacity**

[7 CFR 764.4(a)(1)] The applicant must have the legal capacity to incur the obligation of the loan.

The applicant must be of legal age, mental capacity, and have authority to enter into a legally binding agreement. If the applicant is an entity, all members, stockholders, partners, and joint operators must meet this requirement.

C**Citizenship**

***--[7 CFR 764.4(a)(2)(i)] The applicant must be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws.**

[7 CFR 764.4(a)(2)(ii)] United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

U.S. non-citizen nationals and qualified aliens must submit appropriate documentation to verify immigration status as provided in Exhibits 8 and 9, as applicable.--*

Continued on the next page

163 Eligibility Requirements (Continued)

N

**Borrower
Training**

[7 CFR 764.4(a)(13)] The applicant must agree to meet the borrower training requirements in accordance with § 1924.74 of this title.

O

**Prior Drug
Convictions**

[7 CFR 764.4(a)(14)] The applicant cannot have been convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance, as defined in 21 CFR part 1308, during the current crop year or the previous 4 crop years. If the applicant is an entity, *--this requirement applies to all members of the entity.

The applicant also self-certifies on the application form that he or she as an individual, or any member of an entity applicant, is not ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862.

A decision to reject an applicant for either of these reasons is not appealable.--*

P

**Recovery of
Duplicative
Benefits**

[7 CFR 764.4(a)(15)] The applicant must agree to repay any duplicative Federal assistance to the agency providing such assistance. A person receiving Federal assistance for a major disaster or emergency is liable to the United States to the extent that the assistance duplicates benefits available to the person for the same purpose from another source.

If additional disaster benefits are expected, but the amount is not known, the applicant must assign the benefits to FSA.

Programs enacted after loan approval will not affect the loan amount.

Continued on the next page

163 Eligibility Requirements (Continued)

Q**Timely Loan Application**

[7 CFR 764.4(b)(1)] A loan application must be received by the Agency not later than 8 months after the date the disaster is declared or designated in the county of the applicant's farming operation.

Loan approval officials shall verify that receipt of the loan application was within timeframes established in the State supplement to FmHA Instruction 1945-A.

--If a county has been designated or named (either contiguous or primary) more than 1 time for the same disaster, applicants will have 8 months from the date of the most recent designation to submit an application.--

R**Qualifying Losses**

[7 CFR 764.4(b)(2)(i)] The applicant may seek an Emergency loan only with respect to a family farm that had production or physical losses as a result of a disaster in a disaster area.

Refer to the State supplements to FmHA Instruction 1945-A, which provide a list of current disaster designations determining if an applicant was operating in a disaster designated area.

[7 CFR 764.4(b)(2)(ii)] For production loss loans, the applicant must have a disaster yield that is at least 30 percent below the normal production yield of any single crop, as determined by the Agency, that comprises a basic part of an applicant's total farming operation.

See Exhibit 2 for the definition of "Basic Part of an Applicant's Total Farming Operation."

--Calculate production losses according to subparagraph 165 C.--

Note: If an applicant cannot plant their usual crop or plants the crop and it is destroyed as a result of the disaster, then the applicant plants a substitute crop in its place, the applicant will not be eligible for a production loss on the original crop. However, if the substitute crop suffers a qualifying loss, a loan may be made for the loss on that crop.

[7 CFR 764.4(b)(2)(iii)] For physical loss loans, the applicant must have suffered disaster-related damage to chattel or real estate essential to the farming operation, to household items that must be repaired or replaced, to harvested or stored crops, or to perennial crops.

Continued on the next page

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
CCC-452 Manual	NAP Actual Production History and Approved Yield Record		165
FmHA 1940-1	Request for Obligation of Funds		172, 175
FSA 431-2	Farm and Home Plan		167, 175, 176, Ex. 7
FSA-440-2	Eligibility Certification or Recommendation		175, 177
FSA 440-32	Verification of Debts and Assets		163
FSA 1940-38	Request for Lender's Verification of Loan Application		163
FSA 1945-22	Certification of Disaster Losses		165
FSA 1945-26	Calculation of Actual Losses		165

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ADPS	Automated Discrepancy Processing System	163
APH	actual production history	165
BCIS	Bureau of Citizenship and Immigration Services	Ex. 8, 9
CAIVRS	Credit Alert Interactive Voice Response System	163
CONACT	Consolidated Farm and Rural Development Act	1
ECOA	Equal Credit Opportunity Act	2, 176
ECP	Emergency Conservation Funding	162
EM	emergency loans	164, 171, 175, Ex. 7
FLC	Farm Loan Chief	165, Ex. 7
INA	Immigration and Nationality Act	Ex. 8
INS	Immigration and Naturalization Service	163
LLC	Limited Liability Company	163
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 8
SBA	supervised bank accounts	176

Redelegations of Authority

None

Definition of Terms Used in This Handbook (Continued)

Nonfarm Enterprise	<u>Nonfarm enterprise</u> means any nonfarm business enterprise, including recreation, that is closely associated with the farm operation and located on or adjacent to the farm and provides income to supplement farm income. This may include, but is not limited to, such enterprises as raising earthworms, exotic birds, tropical fish, dogs, and horses for nonfarm purposes, welding shops, roadside stands, boarding horses and riding stables.
Normal Production Yield	<p><u>Normal production yield</u> means:</p> <ol style="list-style-type: none"> (1) The per-acre actual production history of the crops produced by the farming operation used to determine Federal crop insurance payments or payment under the Non-Insured Assistance Program for the production year during which the disaster occurred; (2) When the actual production history is not available, the applicant's own production records for the previous three years will be used. If the applicant's production records are not available, the records of production on which FSA farm program payments are made that are contained in the applicant's farm program file, for the previous three years will be used; (3) When the production records outlined in (a) and (b) above are not available, the county average production yield will be used.
Owner	<u>Owner</u> means those persons with an interest in the entity as a stockholder, partner, member, or joint operator.
Physical Loss	<u>Physical loss</u> means verifiable damage or destruction with respect to real estate or chattel, excluding annual growing crops.
Production Loss	<u>Production loss</u> means verifiable damage or destruction with respect to annual growing crops.
--Qualified Alien	<p><u>Qualified alien</u>, as defined under PRWORA (8 U.S.C. 1641), is:</p> <ul style="list-style-type: none"> • an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act--

Continued on the next page

Definition of Terms Used in This Handbook (Continued)

--Qualified Alien (Continued)	<ul style="list-style-type: none"> • an alien who is granted asylum under section 208 of PRWORA • a refugee who is admitted to the United States under section 207 of PRWORA • an alien who is paroled into the United States under section 212(d)(5) of PRWORA for a period of at least 1 year • an alien whose deportation is being withheld under section 243(h) of PRWORA • an alien who is granted conditional entry according to section 203(a)(7) of PRWORA as in effect before April 1, 1980 • an alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980 • an alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act.-- <hr/>
Quarantine	<p><u>Quarantine</u> means a quarantine imposed by the Secretary under the Plant Protection Act or the Animal Quarantine Laws (as defined in Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990).</p> <hr/>
Security Value	<p><u>Security value</u> means the Agency-established market value of property (less the value of any prior liens) used as security for a loan under this part as of the date of the closing of the loan.</p> <hr/>
United States	<p><u>United States</u> means each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.</p> <hr/>
--U.S. Non-Citizen National	<p>A <u>U.S. non-citizen national</u> is a person born in America Samoa or Swains Island on or after the date the U.S. acquired America Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport with a document bearing a photograph of the person.--</p> <hr/>
Working Capital	<p><u>Working capital</u> means cash available to conduct normal daily farming or ranching operations including, but not limited to, feed, seed, fertilizer, pesticides, farm or ranch supplies, cooperative stock, and cash rent.</p> <hr/>

Interim Guidance: Documentary Evidence of Status as a Qualified Alien

Qualified Alien: *As defined under PRWORA (8 U.S.C. 1641):*

1. *An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;*
2. *An alien who is granted asylum under section 208 of such Act;*
3. *A refugee who is admitted to the United States under section 207 of such Act;*
4. *An alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year;*
5. *An alien whose deportation is being withheld under section 243(h) of such Act;*
6. *An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;*
7. *An alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980;*
8. *An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act. 8 U.S.C. 1641 contains more on aliens battered or subjected to extreme cruelty.*

The documents listed below will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant falls within one of the categories of “qualified alien” for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Under the Immigration and Nationality Act (the “INA”), all aliens over the age of 14 who remain in the United States for longer than 30 days are required to register with the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services (BCIS) and obtain an alien registration document. All aliens over the age of 18 who receive a registration document are required to carry it with them at all times. With certain exceptions (e.g., Canadian visitors), aliens entering the U.S. are normally issued a registration document (e.g., a BCIS Form I-94) at the time of entry. The documents listed below that are registration documents are indicated with an asterisk (“*”). Each of the documents listed below will demonstrate lawful status, and you should not require presentation of a registration document if the applicant presents one of the other legally acceptable documents that reasonably appears on its face to be genuine and to relate to the person presenting it. However, if the document presented is not a registration document and does not on its face reasonably appear to be genuine or to relate to the person presenting it, it is appropriate to ask the applicant to produce his or her registration document as additional evidence of immigration status, so long as the request is not made for a discriminatory reason. Presentation of a registration document listed below that reasonably appears on its face to be genuine and to relate to the person presenting it (or to satisfy a higher applicable standard) will often obviate the need to verify the applicant’s immigration status with BCIS; if the applicant presents a registration document that does not meet this standard, sending BCIS a copy of the document will assist it in verifying the applicant’s status quickly and accurately.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

A. Alien Lawfully Admitted for Permanent Residence

*BCIS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”); or
Unexpired Temporary I-551 stamp in foreign passport or on *BCIS Form I-94.

B. Asylee

*BCIS Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA;
*BCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(5)”;
*BCIS Form I-766 (Employment Authorization Document) annotated “A5”;
Grant letter from the Asylum Office of BCIS; or
Order of an immigration judge, granting asylum.

C. Refugee

*BCIS Form I-94 annotated with stamp showing admission under Sec. 207 of the INA;
*BCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
*BCIS Form I-766 (Employment Authorization Document) annotated “A3”; or
BCIS Form I-571 (Refugee Travel Document).

D. Alien Paroled Into the U.S. for a Least One-Year

*BCIS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)

E. Alien Whose Deportation or Removal Was Withheld

*BCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(10)”;
*BCIS Form I-766 (Employment Authorization Document) annotated “A10”; or
Order from an immigration judge showing deportation withheld under Sec. 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Sec. 241(b)(3) of the INA.

F. Alien Granted Conditional Entry

*BCIS Form I-94 with stamp showing admission under Sec. 203(a)(7) of the INA;
*BCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
*BCIS Form I-766 (Employment Authorization Document) annotated “A3”.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

G. Cuban/Haitian Entrant

- *BCIS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, or CH6
Unexpired temporary I-551 stamp in foreign passport or on
- *BCIS Form I-94 with the code CU6 or CU7; or
BCIS Form I-94 with stamp showing parole as “Cuba/Haitian Entrant” under Section 212(d)(5) of the INA.

H. Alien Who Has Been Battered or Subjected to Extreme Cruelty

Guidance as to the requirements that must be met for an alien to fall within this category of qualified alien is set forth in DOJ’s Notice of Interim Guidance. Note that Title IV, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, contains provisions requiring that, upon the effective date of the new affidavit of support (required under section 213A of the Act), when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person’s spouse. Certain exceptions are made for indigent qualified aliens and for qualified aliens who (or whose children) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent’s family and for qualified alien children whose parents have been subjected to such abuse.

I. Expired or Absent Documentation

If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local BCIS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file BCIS Form G-845 and Supplement, along with the alien registration number and a copy of any expired BCIS document presented, with the local BCIS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from BCIS pertains to the applicant whose identity you have verified.

J. Receipt for Replacement Document

If an applicant presents a receipt indicating that he or she has applied to BCIS for a replacement document for one of the documents identified above, file BCIS Form G-845 and Supplement along with a copy of the receipt with the local BCIS office to verify status. Upon return receipt of information from BCIS, confirm that it pertains to the applicant whose identity you have verified. You should ask to see the replacement document at a later date.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

K. Applicants With Disabilities and Nondiscrimination

If an applicant has a disability that limits the applicant's ability to provide the required evidence of immigration status (e.g. mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability.

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National

U.S. Non-Citizen National: *A person born in America Samoa or Swains Island on or after the date the U.S. acquired America Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport with a document bearing a photograph of the person.*

Copies of the following documents will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), demonstrate that a person is a U.S. citizen or non-citizen national for purposes of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. (To the extent citizenship or nationality of a child is relevant to a benefit eligibility determination, the documents should demonstrate the child's status rather than that of the parent.) The lists set forth in Paragraphs A and B below are drawn from existing guidance published by the Social Security Administration ("SSA") and regulations issued by the U.S. Department of Homeland Security, Bureau of Citizenship and Immigration Services (BCIS), regarding determination of U.S. citizenship and nationality; the lists in Paragraphs C through F are drawn solely from the SSA guidance. These lists are not exhaustive; you should refer to guidance issued by the agency or department overseeing your program to determine if it accepts documents or other evidence of citizenship not listed below.

A. Primary Evidence:

- (1) A birth certificate showing birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in the U.S. Note: If the document shows that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen--see Paragraph C below.
- (2) United States passport (except limited passports, which are issued for periods of less than five years);
- (3) Report of birth abroad of a U.S. citizen (FS-240) (issued by the Department of State to U.S. citizens);
- (4) Certificate of birth (FS-545) (issued by a foreign service post) or Certification of Report of Birth (DS-1350) (issued by the Department of State), copies of which are available from the Department of State;
- (5) Certificate of Naturalization (N-550 or N-570) (issued by BCIS through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized; the N-570 is a replacement certificate issued when the N- 550 has been lost or mutilated or the individual's name has been changed);
- (6) Certificate of Citizenship (N-560 or N-561) (issued by BCIS to individuals who derive U.S. citizenship through a parent; the N- 561 is a replacement certificate issued when the N-560 has been lost or mutilated or the individual's name has been changed);

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National (Continued)

- (7) United States Citizen Identification Card (I-197) (issued by BCIS until April 7, 1983 to U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings) (formerly Form I-179, last issued in February 1974);
- (8) Northern Mariana Identification Card (issued by BCIS to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before November 3, 1986);
- (9) Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen (this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS-240, FS-545 or DS-1350);
- (10) American Indian Card with a classification code “KIC” and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

B. Secondary Evidence: If the applicant cannot present one of the documents listed in A above, the following may be relied upon to establish U.S. citizenship or nationality:

- (1) Religious record recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain’s Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual’s age at the time the record was made;
- (2) Evidence of civil service employment by the U.S. government before June 1, 1976;
- (3) Early school records (preferably from the first school) showing the date of admission to the school, the child’s date and place of birth, and the name(s) and place(s) of birth of the parent(s);
- (4) Census record showing name, U.S. citizenship or a U.S. place of birth, and date of birth or age of applicant;
- (5) Adoption Finalization Papers showing the child’s name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain’s Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) or, where adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child’s name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or
- (6) Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship (e.g. a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain’s Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction)).

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National (Continued)

C. Collective Naturalization: If the applicant cannot present one of the documents listed in A or B above, the following will establish U.S. citizenship for collectively naturalized individuals:

- (1) Puerto Rico:** Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain;
- (2) U.S. Virgin Islands:** Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927; The applicant's statement indicating resident in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., U.S. possession or territory or the Canal Zone on June 28, 1932.
- (3) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):** Evidence of birth in NMI, TTPI citizenship and residence in NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); Evidence of TTPI citizenship, continuous residence in NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or Evidence of continuous domicile in NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time). Note: If a person entered NMI as a nonimmigrant and lived in NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

D. Derivative Citizenship: If the applicant cannot present one of the documents listed in A or B above, you should make a determination of derivative U.S. citizenship in the following situations:

- (1) Applicant born abroad to two U.S. citizen parents:** Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.
- (2) Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent:** Evidence that one parent is a U.S. citizen and that the other is a U.S. non-citizen national, evidence of the relationship of the applicant to the U.S. citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National (Continued)

- (3) Applicant born out of wedlock abroad to a U.S. citizen mother:** Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.
- (4) Applicant born in the Canal Zone or the Republic of Panama:** A birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or A birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

E. All other situations where an applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within one of the above categories but is unable to present the listed documentation:

- (1)** If the applicant is in the U.S., refer him or her to the local BCIS office for determination of U.S. citizenship;
- (2)** If the applicant is outside the U.S., refer him or her to the State Department for a U.S. citizenship determination.
- (3) Adoption of Foreign-Born Child by U.S. Citizen:** If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the above criteria, obtain other evidence of U.S. citizenship; Since foreign-born adopted children do not automatically acquire U.S. citizenship by virtue of adoption by U.S. citizens, refer the applicant to the local BCIS district office for a determination of U.S. citizenship if the applicant provides no evidence of U.S. citizenship.
- (4) U.S. Citizenship By Marriage:** A woman acquired U.S. citizenship through marriage to a U.S. citizen before September 22, 1922. Ask for: Evidence of U.S. citizenship of the husband, and evidence showing the marriage occurred before September 22, 1922. Note: If the husband was an alien at the time of the marriage, and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in the U.S. at that time and continued to reside in the U.S.
- (5) Applicants With Disabilities and Nondiscrimination:** If an applicant has a disability that limits the applicant's ability to provide the required evidence of citizenship or nationality (e.g., mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance.